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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,123	12/31/2001	Vivek Kashyap	BEA9200000011US2	8785

7590 11/01/2004	EXAMINER

Pryor Garnett, Counsel
IBM Corporation
Intellectual Property Law Dept., EDO2-06
15450 SW Koll Parkway
Beaverton, OR 97006-6063

	MANOSKEY, JOSEPH D

ART UNIT	PAPER NUMBER
2113	

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _31 December 2001_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-15_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-15_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _31 December 2001_ is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Drawings

1.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5)

because they include the following reference character(s) not mentioned in the

description: reference number "13" of Fig. 1A and reference number "35" of Fig. 3.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the

specification to add the reference character(s) in the description in compliance with 37

CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the

application. Any amended replacement drawing sheet should include all of the figures

appearing on the immediate prior version of the sheet, even if only one figure is being

amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the

page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing

figures. If the changes are not accepted by the examiner, the applicant will be notified

and informed of any required corrective action in the next Office action. The objection to

the drawings will not be held in abeyance.

2.   The drawings are objected to because there is no reference to Fig. 2 or its

reference numbers "21" and "22" in the specification. Corrected drawing sheets in

compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid

abandonment of the application. Any amended replacement drawing sheet should

include all of the figures appearing on the immediate prior version of the sheet, even if

only one figure is being amended. The figure or figure number of an amended drawing

should not be labeled as "amended." If a drawing figure is to be canceled, the

appropriate figure must be removed from the replacement sheet, and where necessary,

the remaining figures must be renumbered and appropriate changes made to the brief

description of the several views of the drawings for consistency. Additional replacement

sheets may be necessary to show the renumbering of the remaining figures. The

replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as

per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the

changes are not accepted by the examiner, the applicant will be notified and informed of

any required corrective action in the next Office action. The objection to the drawings

will not be held in abeyance.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claim 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et

al., U.S. Patent 6,601,101, hereinafter referred to as "Lee".

5.   Referring to claim 1, Lee teaches handing off TCP sessions in a system including

a client in communication with a switch and two or more devices wherein a first device

handing off to the second device, this is interpreted as an apparatus for providing to a

third system connection information for a connection between first and second systems,

the first, second and third systems being connected by a network (See Col. 3, lines 33-

38). Lee discloses the apparatus attached to the devices via a network, this is

interpreted as a network interface (See Fig. 2A and 2B). Lee also discloses the

apparatus having a switch, this is interpreted as a selector responsive to the network

interface identifying the connection (See Fig. 2A and Col. 3, lines 33-38). Lee teaches

the switch or thinserver accessing disks, this is interpreted as memory storing the

connection information of the connection (See Fig. 10 and Col. 16, lines 61-64). Finally

Lee teaches the apparatus have an output processor, this is interpreted as an output

queue for sending the connection information to the third system (See Fig. 2A and Col.

6, lines 39-56).

6.   Referring to claim 2, Lee teaches the use of extensions of the TCP protocol that

contain connection state information, this is interpreted as the memory storing at least

one data packet and connection state information (See Fig. 4B and Col. 9, lines 23-33).

7.   Referring to claim 3, Lee discloses the connection as being a TCP session (See

Col. 3, lines 33-35).

8.   Referring to claim 4, Lee teaches the apparatus connected to a client, a first

device and a second device that the connection can be handed off to, this is interpreted

as the first system is a connection host, the second system is a remote host, and the

third system is a failover host (See Col. 3, lines 33-41).

9.   Referring to claim 5, Lee discloses the devices transferring state information

during the handoff of a TCP session, this is interpreted as the first and third system

solicit ownership information from each other (See Col. 9, lines 1-22).

10.   Referring to claim 6, Lee teaches the system being in a cluster (See Fig. 2A).

11.   Referring to claim 7, Lee discloses handing off TCP sessions in a system

including a client in communication with a switch and two or more devices wherein a

first device handing off to the second device, this is interpreted as a system for

maintaining a connection within a network (See Col. 3, lines 33-38). Lee discloses the

devices transferring state information during the handoff of a TCP session, this is

interpreted as means for broadcasting ownership information between a first system on

which an application is running to at least a second system within the network (See Col.

9, lines 1-22). Lee teaches the system including logic that instructs a second device to

accept a handoff, this is interpreted as means for determining that the second system

will assume the connection for the first system if the system fails (See Col. 4, lines 27-

28). Lee discloses the system having an apparatus connected to the devices via a

network that includes memory for storing packets sent to and received by the first

system (See Fig. 2A, 2B, 4B, and Col. 9, lines 23-33). Lee also teaches detecting

failure of device, which is interpreted as means for determining that the first system is in

a failed state (Col. 20, lines 7-9). Finally Lee teaches the TCP session being handed off

from the first device to the second device, this is interpreted as means for continuing the

application on the second system from the point at which the first system failed, the

means for continuing being responsive to the stored packets of the apparatus (See Col.

3, lines 33-41).

12.   Referring to claim 8, teaches the second system booted (See Col. 4, lines 25-32

and Col. 6 lines 15-28).

13.   Referring to claim 9, Lee teaches the information having IP addresses, port

numbers, MAC addresses, fail over policy, applications, cluster node ID (See Fig. 4A,

4B, Col. 3, line 66 to Col. 4, line 5, Col. 11, lines 7-46, Col. 14, lines 60-65, and Col. 21,

lines 42-61).

14.   Referring to claim 10, Lee discloses first device close the session and thus

returning from a failed state to a normal state and being able to regain control of the

connection (See Col. 9, lines 1-22).

15.   Referring to claim 11, Lee teaches the use of extensions of the TCP protocol that

contain connection state information, this is interpreted as the memory further stores

connection state information corresponding to the packets stored in memory (See Fig.

4B and Col. 9, lines 23-33).

16.   Referring to claim 12, Lee discloses the connection as being a TCP session (See

Col. 3, lines 33-35).

17.   Referring to claim 13, Lee teaches the apparatus connected to a client, a first

device and a second device that the connection can be handed off to, this is interpreted

as the first system is a connection host and the second system is a failover host (See

Col. 3, lines 33-41).

18.   Referring to claim 14, Lee discloses the devices transferring state information

during the handoff of a TCP session, this is interpreted as the first and second system

solicit ownership information from each other (See Col. 9, lines 1-22).

19.   Referring to claim 15, Lee teaches the system being in a cluster (See Fig. 2A).

Conclusion

20.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. The following are closely related failover systems.

U.S. Patent 5,812,751 to Ekrot et al.

U.S. Patent 6,185,695 to Murphy et al.

U.S. Patent 6,539,494 to Abramson et al.

U.S. Patent Application Pub. 2003/0014480 to Pullara et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Manoskey whose telephone number is (571) 272-3648. The examiner can normally be reached on Mon.-Fri. (7:30am to 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDM
October 27, 2004

ROBERT BEAUSOLIEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100